

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CHIOKE GADSDEN,

Plaintiff

v.

JAMES DONNELLY et al.,

Defendants

Case No. 3:17-cv-00728-MMD-CBC

ORDER	
<input checked="checked" type="checkbox"/> FILED	<input type="checkbox"/> RECEIVED
<input type="checkbox"/> ENTERED	<input type="checkbox"/> SERVED ON
COUNSEL PARTIES OF RECORD	
NOV - 8 2018	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: _____	DEPUTY _____

I. DISCUSSION

On October 2, 2018, the Court issued a screening order dismissing some claims with prejudice, dismissing other claims with leave to amend, and permitting some claims to proceed. (ECF No. 9 at 21-23). The Court granted Plaintiff 30 days from the date of that order to file an amended complaint curing the deficiencies of his complaint. (*Id.* at 24). The Court detailed which claims would proceed if Plaintiff chose not to file an amended complaint. (See *id.* at 24-25). Plaintiff has not filed an amended complaint.

Pursuant to the screening order, this action will proceed on Count I, alleging a First Amendment retaliation claim against Kassebaum based on Kassebaum's denying Plaintiff access to the grievance process; Count I, alleging a Fourteenth Amendment access to grievance procedures claim against Kassebaum; Count II, alleging a First Amendment free exercise of religion claim against Kassebaum for taking Plaintiff's book of shadows; Count II, alleging a Fourteenth Amendment claim against Kassebaum and Bautista for an intentional authorized deprivation; Count II, alleging a violation of RLUIPA against Kassebaum for taking Plaintiff's book of shadows; Count III, alleging a First Amendment retaliation claim against Kassebaum based on her filing of false disciplinary charges; Count IV, alleging supervisory liability for Kassebaum's acts of retaliation and intentional deprivation against Olivas, Donnelly, Steinheimer, Terrance, and East; Count V, alleging a Fourteenth Amendment procedural due process claim against Donnelly, Olivas, and Kassebaum based on Plaintiff's placement in administrative segregation;

1 Count VI, alleging a First Amendment retaliation claim against Kassebaum, Olivas, and
2 Donnelly based on Plaintiff's placement in administrative segregation; Count VII, alleging
3 a First Amendment free exercise claim against Donnelly, Kassebaum, and Olivas based
4 on Plaintiff's placement in administrative segregation; and Count VII, alleging a RLUIPA
5 claim against Donnelly, Kassebaum, and Olivas based on Plaintiff's placement in
6 administrative segregation. (*Id.* at 24-25).

7 CONCLUSION

8 For the foregoing reasons, it is ordered that, pursuant to the Court's screening
9 order (ECF No. 9), this action will proceed on Count I, alleging a First Amendment
10 retaliation claim against Kassebaum based on Kassebaum's denying Plaintiff access to
11 the grievance process; Count I, alleging a Fourteenth Amendment access to grievance
12 procedures claim against Kassebaum; Count II, alleging a First Amendment free exercise
13 of religion claim against Kassebaum for taking Plaintiff's book of shadows; Count II,
14 alleging a Fourteenth Amendment claim against Kassebaum and Bautista for an
15 intentional authorized deprivation; Count II, alleging a violation of RLUIPA against
16 Kassebaum for taking Plaintiff's book of shadows; Count III, alleging a First Amendment
17 retaliation claim against Kassebaum based on her filing of false disciplinary charges;
18 Count IV, alleging supervisory liability for Kassebaum's acts of retaliation and intentional
19 deprivation against Olivas, Donnelly, Steinheimer, Terrance, and East; Count V, alleging
20 a Fourteenth Amendment procedural due process claim against Donnelly, Olivas, and
21 Kassebaum based on Plaintiff's placement in administrative segregation; Count VI,
22 alleging a First Amendment retaliation claim against Kassebaum, Olivas, and Donnelly
23 based on Plaintiff's placement in administrative segregation; Count VII, alleging a First
24 Amendment free exercise claim against Donnelly, Kassebaum, and Olivas based on
25 Plaintiff's placement in administrative segregation; and Count VII, alleging a RLUIPA
26 claim against Donnelly, Kassebaum, and Olivas based on Plaintiff's placement in
27 administrative segregation.

28 It is further ordered that given the nature of the claim(s) that the Court has

1 permitted to proceed, this action is stayed for ninety (90) days to allow Plaintiff and
2 Defendant(s) an opportunity to settle their dispute before an answer is filed or the
3 discovery process begins. During this ninety-day stay period, no other pleadings or
4 papers shall be filed in this case, and the parties shall not engage in any discovery. The
5 Court will refer this case to the Court's Inmate Early Mediation Program, and the Court
6 will enter a subsequent order. Regardless, on or before ninety (90) days from the date
7 this order is entered, the Office of the Attorney General shall file the report form attached
8 to this order regarding the results of the 90-day stay, even if a stipulation for dismissal is
9 entered prior to the end of the 90-day stay. If the parties proceed with this action, the
10 Court will then issue an order setting a date for Defendants to file an answer or other
11 response. Following the filing of an answer, the Court will issue a scheduling order setting
12 discovery and dispositive motion deadlines.

13 It is further ordered that "settlement" may or may not include payment of money
14 damages. It also may or may not include an agreement to resolve Plaintiff's issues
15 differently. A compromise agreement is one in which neither party is completely satisfied
16 with the result, but both have given something up and both have obtained something in
17 return.

18 It is further ordered that if any party seeks to have this case excluded from the
19 inmate mediation program, that party shall file a "motion to exclude case from mediation"
20 on or before twenty-one (21) days from the date of this order. The responding party shall
21 have seven (7) days to file a response. No reply shall be filed. Thereafter, the Court will
22 issue an order, set the matter for hearing, or both.

23 It is further ordered that the Clerk of the Court will electronically SERVE a copy of
24 this order, the original screening order (ECF No. 9) and a copy of Plaintiff's complaint
25 (ECF No. 1-2) on the Office of the Attorney General of the State of Nevada, by adding the
26 Attorney General of the State of Nevada to the docket sheet. This does not indicate
27 acceptance of service.

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1 It is further ordered that the Attorney General's Office shall advise the Court within
2 twenty-one (21) days of the date of the entry of this order whether it will enter a limited
3 notice of appearance on behalf of Defendants for the purpose of settlement. No defenses
4 or objections, including lack of service, shall be waived as a result of the filing of the
5 limited notice of appearance.

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7 DATED THIS 8th day of November 2018.

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10 United States Magistrate Judge
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1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 CHIOKE GADSDEN,
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Plaintiff

5 v.
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7 JAMES DONNELLY et al.,
8

Defendants

Case No. 3:17-cv-00728-MMD-CBC

REPORT OF ATTORNEY GENERAL
RE: RESULTS OF 90-DAY STAY

9 **NOTE: ONLY THE OFFICE OF THE ATTORNEY GENERAL SHALL FILE THIS FORM.**
10 **THE INMATE PLAINTIFF SHALL NOT FILE THIS FORM.**

11 On _____ [the date of the issuance of the screening order], the Court
12 issued its screening order stating that it had conducted its screening pursuant to 28 U.S.C.
13 § 1915A, and that certain specified claims in this case would proceed. The Court ordered
14 the Office of the Attorney General of the State of Nevada to file a report ninety (90) days
15 after the date of the entry of the Court's screening order to indicate the status of the case
16 at the end of the 90-day stay. By filing this form, the Office of the Attorney General hereby
17 complies.

18 **REPORT FORM**

19 [Identify which of the following two situations (identified in bold type) describes the case,
20 and follow the instructions corresponding to the proper statement.]

21 **Situation One: Mediated Case: The case was assigned to mediation by a court-**
22 **appointed mediator during the 90-day stay.** [If this statement is accurate, check ONE
of the six statements below and fill in any additional information as required, then proceed
to the signature block.]

23 _____ A mediation session with a court-appointed mediator was held on
24 _____ [enter date], and as of this date, the parties have
25 reached a settlement (even if paperwork to memorialize the settlement
26 remains to be completed). (If this box is checked, the parties are on notice
that they must SEPARATELY file either a contemporaneous stipulation of
dismissal or a motion requesting that the Court continue the stay in the case
until a specified date upon which they will file a stipulation of dismissal.)

27 _____ A mediation session with a court-appointed mediator was held on
28 _____ [enter date], and as of this date, the parties have not
reached a settlement. The Office of the Attorney General therefore informs
the Court of its intent to proceed with this action.

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- _____ No mediation session with a court-appointed mediator was held during the 90-day stay, but the parties have nevertheless settled the case. *(If this box is checked, the parties are on notice that they must SEPARATELY file a contemporaneous stipulation of dismissal or a motion requesting that the Court continue the stay in this case until a specified date upon which they will file a stipulation of dismissal.)*
- _____ No mediation session with a court-appointed mediator was held during the 90-day stay, but one is currently scheduled for _____ [enter date].
- _____ No mediation session with a court-appointed mediator was held during the 90-day stay, and as of this date, no date certain has been scheduled for such a session.
- _____ None of the above five statements describes the status of this case. Contemporaneously with the filing of this report, the Office of the Attorney General of the State of Nevada is filing a separate document detailing the status of this case.

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Situation Two: Informal Settlement Discussions Case: The case was NOT assigned to mediation with a court-appointed mediator during the 90-day stay; rather, the parties were encouraged to engage in informal settlement negotiations. [If this statement is accurate, check ONE of the four statements below and fill in any additional information as required, then proceed to the signature block.]

- _____ The parties engaged in settlement discussions and as of this date, the parties have reached a settlement *(even if the paperwork to memorialize the settlement remains to be completed)*. *(If this box is checked, the parties are on notice that they must SEPARATELY file either a contemporaneous stipulation of dismissal or a motion requesting that the Court continue the stay in this case until a specified date upon which they will file a stipulation of dismissal.)*
- _____ The parties engaged in settlement discussions and as of this date, the parties have not reached a settlement. The Office of the Attorney General therefore informs the Court of its intent to proceed with this action.
- _____ The parties have not engaged in settlement discussions and as of this date, the parties have not reached a settlement. The Office of the Attorney General therefore informs the Court of its intent to proceed with this action.
- _____ None of the above three statements fully describes the status of this case. Contemporaneously with the filing of this report, the Office of the Attorney General of the State of Nevada is filing a separate document detailing the status of this case.

Submitted this _____ day of _____, _____ by:

Attorney Name: _____
Print

Signature

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